REMARKS

The Examiner's comments together with the cited references have been carefully studied. Favorable reconsideration in view of the foregoing amendments and following remarks is respectfully requested.

Claims 1, 3, 5-24, 26, and 27 were previously pending in the application. Claims 1, 3, and 5-24 have been rejected, and claims 26-27 have been withdrawn from consideration. Claims 10, 12, and 14 have been newly canceled. Claims 1, 3, and 22 herewith are amended. Claims presently active are, therefore, claims 1, 3, 5-9, 11, 13, and 15-24. Favorable reconsideration of the application in view of the following remarks is respectfully requested

Claims 1, 3, 5-10, 13, 14, and 18-21 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallo et al., as evidenced by Lawrence et al., in view of Landry-Coltrain et al. It is the conclusion of the Examiner that "One of ordinary skill in the art would have been motivated to adjust the pore volume of the image receiving layer in order to optimize the ink-absorbing properties of the layer" and "...it would have been obvious to a person of ordinary skill in the art to combine the base layer of Landry-Coltrain with the invention of Gallo in order to absorb the solvent from the ink."

The rejection is traversed. Gallo et al. fail to disclose the present invention. While Gallo et al. do mention an encapsulating polymer that has a Tg less than 25°C, the encapsulating polymer actually encapsulates a polymer that has a Tg greater than 60°C. Hence, Gallo et al. do not disclose, as the Examiner incorrectly alleges, a second type of hydrophobic polymer particles having a Tg lower than about 25°C. Importantly, Gallo et al. do not disclose fusible particles. As mentioned by Applicants in their previous response, the particles of Gallo et al. are actually crosslinked which would prevent fusing and hence not be used for fusible particles. Gallo et al. have designed a recording element that is not fusible, as clearly implied by its disclosed use in operation, and the fact that Gallo et al. find it unnecessary to explicitly state that the recording element is not fusible is mere happenstance. Furthermore, the fact that Gallo et al. do not disclose or remotely teach that a first type of hydrophobic polymer particles (having a Tg higher than 60° C) is substantially monodisperse does not represent, as alleged by the Examiner, a matter for optimization, since the feature in question relates to improving the fusibility of the

fusible layer in the present invention, whereas Gallo et al., not employing any fusing operation, would have no motivation for optimizing fusiblity.

The Examiner does concede that Gallo et al. do not teach a base layer comprising gelatin, as now required by claim 1. The Examiner, however, cites Landry-Coltrain for teaching "highly swellable polymers such as gelatin." This is highly relevant, since the thrust of the present invention is to not use highly swellable gelatin or other such polymers, as shown in Table 2, page 19, of the present specification. Highly swellable gelatin was actually used in the Example of Landry-Coltrain, so it appears that the patent means what it says and hence cannot possibly teach the present invention, what requires gelatin that must not be highly swellable.

Importantly, again, Landry-Coltrain also does not involve fusible particles in a fusible, porous image-receiving layer. Landry-Coltrain uses highly crosslinked polyester particles, not a candidate for fusible particles.

The present claim 1 is directed to an inkjet recording element comprising a transparent, non-porous layer comprising at least 15 weight percent of gelatin, which layer is swellable by water in an amount less than 0.67 of its original weight, wherein the transparent, non-porous layer comprises a crosslinking agent for the gelatin. Furthermore, claim 1 requires a fusible, porous image-receiving layer, wherein the fusible, porous image-receiving layer comprises at least two types of hydrophobic polymer particles. A hydrophobic polymer particle is not necessarily the same as a water-soluble polymer, since water-insolubility as in Gallo et al. is due to crosslinking, not hydrophobicity. In particular, the cationic groups on the polymer particles of Gallo et al., being ionic in nature, are not hydrophobic. See the Polymer Particles A to F in paragraphs 43-49 of Gallo et al.

Furthermore, it can be seen that the particles of Gallo et al. are much smaller, ranging from 68 to 72 nm, compared to the 753 nm to 3 μm in the present example. Accordingly, amended claim 22 now recites that the hydrophobic polymer particles have an average particle size of from about 0.2 μm to about 2 μm.

In view thereof, it follows that the subject matter of the claims would not have been obvious over Gallo et al., as evidenced by Lawrence et al., in view of Landry-Coltrain et al. at the time the invention was made.

Claims 1, 3, and 5-24 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Gallo et al., as evidenced by Lawrence et al., in view

of Tang et al. It is the conclusion of the Examiner that "One of ordinary skill in the art would have been motivated to adjust the pore volume of the image receiving layer in order to optimize the ink-absorbing properties of the layer" and "One of ordinary skill in the art would have been motivated to adjust the Tg value in order to improve the flexibility of the layer." Additionally, the Examiner states, "...with respect to the particle size of the polyurethane dispersion, one of ordinary skill in the art would have been motivated to adjust the particle size in order to optimize coating durability and absorption property of the layer" and "...it would have been obvious to a person of ordinary skill in the art to combine the base layer of the Tang with the invention of Gallo in order to reduce the curl and to absorb the majority of the ink."

This rejection is traversed. In addition to the above reasons with respect to Gallo et al., Tang et al. is also not directed to a fusible image-receiving layer, but rather teaches, as in the examples, a non-porous inkjet recording top layer. Moreover, again, this reference teaches highly swellable gelatin that will swell infinitely (see col. 8, line 4 and 26), which is completely opposite to heart of the presently claimed invention.

In view thereof, it follows that the subject matter of the claims would not have been obvious over Gallo et al., as evidenced by Lawrence et al., in view of Tang et al. at the time the invention was made.

The Examiner, in Response to Arguments, states that the Applicant has failed to provide evidence that "Kodak Inkjet Photopaper" is much more swellable than the gelatin of the present invention. Applicants reaffirm that the gelatin layer of the Kodak Inkjet Photopaper is much more swellable than the gelatin layer of the presently claimed invention. However, it is respectfully submitted that there is no reason for the Examiner to doubt this easily appreciated fact, and there is no basis for the Examiner to require Applicants to provide factual evidence of such fact in addition to the expert testimony evidenced in Applicants statement, which should be given due respect.

The Examiner also states that although Applicant argued that the gelatin of Tang et al. is non-crosslinked, the polymers may be crosslinked

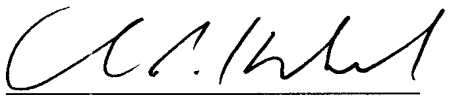
as stated in col.2 lines 52 and claims 10 and 11. However, Tang is referring to crosslinking of a polyurethane, not gelatin.

Applicants have reviewed the prior art made of record and believe that singly or in any suitable combination, they do not render Applicants' claimed invention unpatentable.

In view of the foregoing remarks and amendment, the claims are now believed allowable and such favorable action is courteously solicited.

Should the Examiner consider that additional amendments are necessary to place the application in condition for allowance, the favor is requested of a telephone call to the undersigned counsel for the purpose of discussing such amendments.

Respectfully submitted,



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